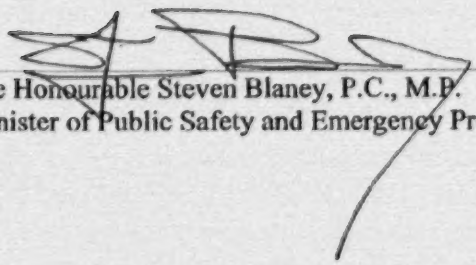
RCMP External Review Committee

2012-13

Departmental Performance Report



The Honourable Steven Blaney, P.C., M.P.
Minister of Public Safety and Emergency Preparedness

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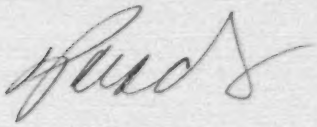
INTERIM CHAIR'S MESSAGE

It is my pleasure to present the Departmental Performance Report (DPR) of the RCMP External Review Committee (ERC). The period covered by this Report occurred under the leadership of my distinguished predecessor, Catherine Ebbs, who completed her fourth term as Chair of the ERC on July 31, 2013. For that reason, I must credit Ms. Ebbs as the person who led this organization to the noteworthy performance it achieved in this year, concluding several successive years of accountable, transparent, measureable performance. I am proud to have served during Ms. Ebbs' administration and, following her commitment to building a better public service, I will continue to strive to demonstrate similar improved results for Canadians.



David Paradiso
Interim Chair

SECTION I: ORGANIZATIONAL OVERVIEW

Raison d'être and Responsibilities

The RCMP External Review Committee (ERC) is an independent and impartial agency that aims to promote fair and equitable labour relations within the RCMP, in accordance with applicable principles of law. To this end the ERC conducts an independent review of appeals in disciplinary, and discharge and demotion matters, as well as certain categories of grievances that are referred to it pursuant to s. 33 of the *RCMP Act* and s. 36 of the *RCMP Regulations*. The ERC reports directly to Parliament through the Minister of Public Safety Canada. The ERC's jurisdiction is restricted to employment and labour matters that relate to regular members and civilian members of the RCMP only. In carrying out its mandate, the ERC ensures that its recommendations are solidly grounded in law and that members of the RCMP are treated in a fair and equitable manner, in keeping with the public interest.

The ERC has a single member, the Chair, who is appointed by an Order-in-Council, and is supported by an Executive Director and a very small staff. The role of the ERC in the Force's labour/management resolution process is a crucial one. Over the years, the RCMP has made changes in a variety of areas based on recommendations made by the ERC.

As one of two oversight/review bodies for the RCMP, the ERC plays an important role in maintaining public confidence in the RCMP and ensures that it respects the law and human rights.

The ERC is within the Public Safety Portfolio whose Minister is the appropriate Minister responsible for the purposes of the *Financial Administration Act*. The ERC's mandate is simply put: the independent and impartial review of grievances as well as appeals that involve the discipline, discharge or demotion of RCMP members. Upon completing its review of a case, the ERC presents findings and recommendations to the Commissioner of the RCMP for a final decision. The Commissioner is not bound to follow the recommendations of the ERC, but he must provide reasons when there is disagreement with the recommendations of the ERC.

Strategic Outcome and Program Alignment Architecture

RCMP External Review Committee **Strategic Outcome** Independent, impartial and thorough analysis, findings and recommendations for transparency in Royal Canadian Mounted Police (RCMP) grievances and appeals.
Program Independent and impartial case review
Internal Services

Internal Services

In an agency as uniquely small as the ERC, staff members' duties span programs and they routinely overlap with varying regularity. Similarly, supplies and equipment are shared by both its sole program and Internal Services on a routine basis. The related expenditures could not be reliably apportioned between programs without an ongoing inordinate expenditure of resources. Any other reporting of this would be particularly inaccurate. As explained in the ERC's 2012-13 Report on Plans and Priorities (RPP), due to the impracticability of tracking Internal Services separately from the rest on an ongoing basis, the ERC has been granted an exemption from ongoing reporting on financial commitments to Internal Services as a separate program.

Since the years 2009-10 and 2010-11 when the Treasury Board of Canada Secretariat (TBS) granted the ERC an exemption from reporting on financial commitments to Internal Services as a separate program, the ERC's circumstances remain largely unchanged. Therefore this Report will continue to present information indicating that the ERC has a single, distinct program.

Organizational Priorities

Priority	Type [1]	Strategic Outcome and Program
Deliver on statutory mandate	Ongoing	Strategic Outcome and Program
Summary of Progress		
Processes reviewed and electronic files project piloted. Third-party Operational Review commissioned to identify possible efficiencies. Report to be analysed and strategy developed to leverage any viable opportunities. Following achievement of error-free reporting, extended period for electronic files transfer pilot project to determine long-term reliability of new protocol.		

Priority	Type	Strategic Outcome and Program
Raising awareness through outreach	Ongoing	Strategic Outcome and Program
Summary of Progress		
Orientation training opportunity established. Following series of excellent evaluations, annual training exercise continued. Yearly schedule of training confirmed. RCMP consultations initiated. Successful collaboration on key RCMP Working Groups. Completed Spring 2013. Phase of formal consultations to be pursued during 2013-14. Leveraged Parliamentary process to raise awareness. Accepted four invitations to appear before Parliamentary committees to present ERC.		

Priority	Type	Strategic Outcome and Program
Continue to invest in our people	Ongoing	Strategic Outcome and Program
Summary of Progress		
Secondments and acting opportunities provided. Acting and secondment opportunities accepted by staff and completed with successful return to substantive positions bringing additional skills and experience. Training plans updated and pursued. Novel, alternative training experiences developed and delivered with concomitant reduction in costs.		

Priority	Type	Strategic Outcome and Program
Continue to improve on the corporate management framework and infrastructure	Ongoing	Strategic Outcome and Program
Summary of Progress		
Memorandum of Understanding (MOU) reviewed, improved and renewed. Process determined for annual frequency of review. Incremental improvements identified. Timeliness to be addressed. Additional service-level agreement established for communications through second MOU following success of above. Horizontal internal audit conducted in relation to forecasting. Findings to be issued in Fall 2013.		

Risk Analysis

Risk	Risk Response Strategy	Link to Program Alignment Architecture	Link to Organizational Priorities
Legislative Reform (Bill C-42)	Participation in processes	Strategic Outcome and Program	Deliver on statutory mandate
Judicial Review (of the RCMP Commissioner's decisions)	Monitor authorities	Strategic Outcome and Program	Deliver on statutory mandate
Fiscal Stability (Sunsetting funding)	Seek stabilized permanent funding	Strategic Outcome and Program	Deliver on statutory mandate

When the ERC's RPP was published, early in 2012, Parliament had before it a Government sponsored bill that proposed changes to the *RCMP Act* that would allow improvements to the internal discipline and grievance systems through *RCMP Regulations*. The ERC, being the external review and appeal body, is an integral component of these systems. By consequence, it has a vested interest in the outcome of the bill and the related statutory revisions. At such an early stage, the ERC cannot determine how its mandate will be affected. However, it is sufficient to state that the ERC will be directly affected should there be changes to the types of cases referred to it, their volume, or the degree of attention that subsequent files may require.

The mitigation strategy that the ERC has pursued to address this risk has been to monitor the legislative progress of the bill, to stay in close communication with senior policy officials in Public Safety Canada, and to participate with the RCMP in Working Groups formed to review related processes and procedures.

There have been repeated media reports about the degree of dissatisfaction amongst RCMP members about the adequacy of the grievance and discipline systems and about the reluctance of members to make use of the processes as a result. Particularly, there have been indications that members are tending to seek redress through the courts, particularly with claims of harassment. Although there is question about the courts' willingness to accept jurisdiction over such claims, it appears that there is a vast number of grievances that have not yet been through the RCMP's processes. Should these factors, such as the availability of recourse to civil litigation or a renewed faith in an amended process, change the number of grievances filed with the RCMP, the ERC will be directly affected.

Whereas insignificant financial matters are not reported as a risk in this Report, the ERC's unique circumstances require that its funding be identified as a significant risk to its operations. It has been explained how the ERC's base budget has been regularly augmented by a series of temporary grants to allow it to meet the obligations of its mandate and to ensure the accountability of its operations. The terms of all of these temporary appropriations expired at the end of fiscal year 2012-13. It has been recognized that the ERC needs to achieve a permanent, sustainable resourcing level. Given that the fluctuation in funding represents as much as 75% of the ERC's annual reference level, this is deemed to be a significant risk. The ERC is in discussions with Public Safety Canada and with Treasury Board of Canada Secretariat in efforts to stabilize its funding.

The ERC continued to pursue its statutory mandate to issue independent reports of its findings and recommendations to the Commissioner of the RCMP. The total number of reports remained relatively constant and the quality of the findings and recommendations remained high. In addition to case reviews, the ERC also acquitted its reporting and corporate duties as they apply to all organizations in the public service. Given its small size, the ERC routinely assigned operational staff to contribute to these corporate reports. The consequent blurring of expenditures toward support services distinct from those toward its statutory mandate has made it impracticable to report them on an ongoing basis and it has also contributed to delays in the case review process. To alleviate this pressure, the ERC has benefited from an arrangement through a MOU with Public Safety Canada, to provide transactional support services in areas of information technology, human resources and finance. Lately, the ERC has added another corporate function to this list, Communications, specifically website design and maintenance, through another MOU. Should the ERC be unsuccessful in achieving a permanent increase in its appropriation the future of this arrangement is at risk.

Summary of Performance

Financial Resources - Total Departmental ($ thousands)

Total Budgetary Expenditures (Main Estimates) 2012-13	Planned Spending 2012-13	Total Authorities (available for use) 2012-13	Actual Spending (authorities used) 2012-13	Difference (Planned vs Actual Spending)
939	939	1,762	1,596	166

Human Resources (Full-Time Equivalents - FTEs)

Planned 2012-13	Actual 2012-13	Difference 2012-13
7	7	0

Performance Summary Tables

Performance Summary Table for Strategic Outcome and Program ($ thousands)

Strategic Outcome: Independent, impartial and thorough analysis, findings and recommendations for transparency in Royal Canadian Mounted Police (RCMP) grievances and appeals

Program	Total Budgetary Expenditures (Main Estimates 2012-13)	Planned Spending			Total Authorities (available for use) 2012-13	Actual Spending (authorities used)			Alignment to Government of Canada Outcomes
		2012-13	2013-14	2014-15		2012-13[2]	2011-12	2010-11	
Independent and impartial case review	939	939	939	939	1,762	1,596	1,692	1,784	Well-managed and efficient Government operations[3]
Strategic Outcome Sub-total	**939**	**939**	**939**	**939**	**1,762**	**1,596**	**1,692**	**1,784**	

Performance Summary Table for Internal Services ($ thousands)

Internal Services	Total Budgetary Expenditures (Main Estimates 2012-13)	Planned Spending			Total Authorities (available for use) 2012-13	Actual Spending (authorities used)		
		2012-13	2013-14	2014-15		2012-13	2011-12	2010-11
	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Sub-Total	**n/a**	**n/a**	**n/a**	**n/a**	**n/a**	**n/a**	**n/a**	**n/a**

As explained above, due to the impracticability of tracking Internal Services separately from the rest on an ongoing basis, the ERC has been granted an exemption from ongoing reporting on financial commitments to Internal Services as a separate program.

Total Performance Summary Table ($ thousands)

Strategic Outcome and Internal Services	Total Budgetary Expenditures (Main Estimates 2012-13)	Planned Spending			Total Authorities (available for use) 2012-13	Actual Spending (authorities used)		
		2012-13	2013-14	2014-15		2012-13	2011-12	2010-11
	939	939	939	939	1,762	1,596	1,692	1,784
Total	**939**	**939**	**939**	**939**	**1,762**	**1,596**	**1,692**	**1,784**

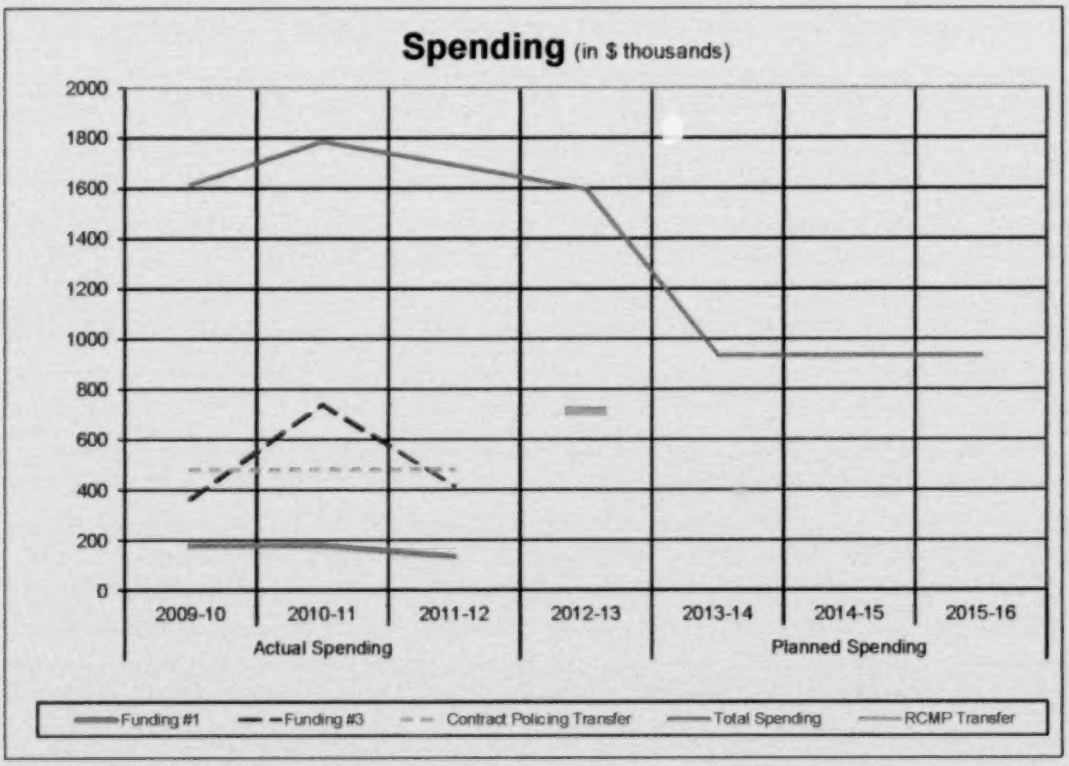
For the last several years the ERC's trend has been relatively consistent, as follows: It bases its budget on the Annual Reference Level Update, which represents its base funding, and at various points in the fiscal year it receives confirmation of a significant grant of short-term funding. The amount has remained somewhat consistent, accounting for reductions comparable to the Deficit Reduction Action Plan in the federal public service generally. However, the inconsistencies in the timing and the sources of the allocations present challenges for expenditure planning. The ERC's strategy is to avoid making long-term spending commitments and favour short-term, flexible arrangements. This allows the ERC to end spending arrangements to coincide with the end of the fiscal year and to curtail spending sooner if necessary.

For this reason there is a consistent pattern of budgeting for lower planned spending while total authorities are augmented mid-year and actual spending is increased to meet the authority. The risk to the ERC's operation is that long term planning is compromised as is continuity of expertise and functional capacity.

Expenditure Profile

The continued increase in temporary spending authorities allowed the ERC success in achieving its targets. The challenge of staffing exclusively determinate positions in a climate of uncertainty resulted in actual spending that was less than the total authorities available for use.

Departmental Spending Trend



Note: Funding #2 ended in fiscal year 2008-09.

As indicated in the table above, the ERC has benefited from several short-term funding allocations that have comprised almost half of its authorities in some years. The challenge continues to be in managing for allocations that are received at different times and for defined periods of time. As the largest portion of the ERC's expenditures is toward salaries, this results in short term, determinate employment which necessitates additional training and can result in a high turnover rate.

Estimates by Vote

As indicated above, actual spending was lower than the total authorities available for use.

For information on the ERC's organizational Votes and/or statutory expenditures, please see the *Public Accounts of Canada 2013*[4] (Volume II). An electronic version of the Public Accounts 2013 is available on the Public Works and Government Services Canada's website.

SECTION II: ANALYSIS OF PROGRAM BY STRATEGIC OUTCOME

Strategic Outcome

The ERC's Strategic Outcome is the independent, impartial and thorough analysis, findings and recommendations for transparency in RCMP grievances and appeals.

To achieve its Strategic Outcome, the ERC carries on a single program: Independent and impartial case review.

Program: Independent and impartial case review

Program Description

The Royal Canadian Mounted Police External Review Committee (ERC) conducts an independent review of appeals in disciplinary, and discharge and demotion matters, as well as certain categories of grievances that are referred to it by the Commissioner of the RCMP pursuant to s. 33 of the *RCMP Act* and s. 36 of the *RCMP Regulations*. The ERC ensures that the principles of administrative an labour law are respected and that the remedial approach indicated by the *Act* is followed. The ERC issues reports of its findings and recommendations in each case to the Commissioner of the RCMP and to the parties. Access to the ERC's reports is made available to all stakeholders (including the parties, RCMP adjudicators, supervisors, members' representatives, staff relations representatives and labour and employment experts in other jurisdictions) by means of its website, publications and presentations.

Financial Resources - For Program Level ($ thousands)

Total Budgetary Expenditures (Main Estimates) 2012-13	Planned Spending 2012-13	Total Authorities (available for use) 2012-13	Actual Spending (authorities used) 2012-13	Difference 2012-13
939	939	1,762	1,596	166

Human Resources (FTEs) - For Program Level

Planned 2012-13	Actual 2012-13	Difference 2012-13
7	7	0

Performance Results - For Program Level

Expected Results	Performance Indicators	Targets	Actual Results
Parties and RCMP Commissioner are provided with a timely independent review of the dispute to facilitate transparent and accountable dispute resolution.	Percentage of cases where findings and recommend-ations are issued, subject to party's right to withdraw.	100% of referred files, subject to party's right to withdraw.	100%
A body of findings and recommendations is made available to assist RCMP Adjudicators, parties, RCMP staff representatives to interpret legislation, regulations and policy.	Body of findings and recommendations is updated quarterly and made available online.	Updated within 2 months of end of quarter.	Within 2 months of end of each quarter.
Public and Parliamentarians are advised of any areas for legislative, regulatory or policy change/clarification.	All recommendations for legislative change/ clarification, if any, are provided to Parliament in annual report.	Annual report submitted before June 30 of each year.	Annual report submitted on time.
The public and RCMP labour relations stakeholders have access to timely and accurate information on employment and labour relations cases referred by the RCMP to the ERC.	Proportion of stakeholders with access to ERC reports.	94% have access to ERC reports.	Premature.

Performance Analysis and Lessons Learned

Case Review

In 2012-13, 60 case files were referred to the ERC: 59 grievances and one disciplinary appeal. The ERC completed 29 cases in 2012-13: 27 findings and recommendations were issued regarding grievances and one was issued regarding a disciplinary appeal. One case was withdrawn before the ERC issued its findings and recommendations.

In the last few years, travel, harassment, and relocation issues accounted for a significant portion of grievance reviews. In 2012-13, relocation and harassment issues were still prominent.

The one disciplinary appeal case was a sanction appeal initiated by the member. The ERC recommended that the appeal be allowed.

Processing

For grievances, the ERC's objective is to issue its findings and recommendations within three months. For appeal cases, it strives for a standard of six months. These service standards are not currently being met. The ERC continues to pursue a permanent resource allocation to reach and sustain an acceptable review rate.

Other Activities

The ERC must meet every statutory obligation required of all departments in the Public Service. Given the ERC's small size and budget, this results in disproportionately significant reporting and corporate requirements which take human and financial resources away from its mandate.

The ERC achieved both its paper and electronic distribution targets, as well as its digital posting targets. Subscriber levels have remained constant and website traffic has continued to increase. This indicates greater accessibility, increased awareness, and a better recognition of the utility and credibility of its website holdings.

The ERC responds to formal and informal requests for information. In 2012-13, the ERC received and responded to a total of 114 requests.

Lessons Learned

This year's experience highlighted the need to prepare for eventualities by committing resources, both financial and human, to flexible objectives that can be readily re-assigned to new initiatives as necessary. The ERC's streamlined planning and approval process responded as events transpired, so resources were re-assigned amongst its priorities. It also proved that the ERC is dependent on augmented fiscal resources to meet the demands of a modern Public Service.

Program: Internal Services

In an agency as small as the ERC, staff duties span programs, and similarly, supplies and equipment are shared among both programs on a routine basis. Due to the impracticability of tracking Internal Services separately on an ongoing basis, the ERC was granted an exemption from ongoing reporting on financial commitments to Internal Services as a separate program. As a result, this report will present information indicating that the ERC has one single, distinct program.

Performance Analysis and Lessons Learned

As indicated above, the ERC identified an area of its administration, website maintenance, as suitable for a service level agreement with Public Safety Canada. A second MOU was struck to perform these functions mid-year. While too early to evaluate, all preliminary indications are that the move was prudent.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Statements Highlights

Condensed Statement of Operations and Departmental Net Financial Position

RCMP External Review Committee Condensed Statement of Operations and Departmental Net Financial Position (Unaudited) For the Year Ended March 31, 2013 ($ thousands)					
	2012-13 Planned Results	2012-13 Actual	2011-12 Actual	$ Change (2012-13 Planned vs Actual)	$ Change (2012-13 Actual vs 2011-12 Actual)
Total expenses	1,185	1,761	1,870	576	(109)
Total revenues	0	0	0	0	0
Net cost of operations before Government funding and transfers	1,185	1,761	1,870	576	(109)
Departmental net financial position	1,185	(108)	(44)	(1,077)	64

Other than the transfer of a significant one-year allocation mid-year, there were no significant events for which the ERC was not prepared. Despite the size of the allocation, this was not dissimilar to the ERC's experience over the course of several years. The ERC had prepared contingencies for the event which proved effective.

Condensed Statement of Financial Position

RCMP External Review Committee Condensed Statement of Financial Position (Unaudited) As at March 31, 2013 ($ thousands)			
	2012-13	**2011-12**	**$ Change**
Total net liabilities	256	319	(63)
Total net financial assets	139	171	(32)
Departmental net debt	117	148	(31)
Total non-financial assets	**10**	104	**(94)**
Departmental net financial position	**(108)**	**(44)**	**64**

The ERC's net financial position is in effect the result of spending reductions, and does not reflect on its financial management. Specifically, it relates to the amortization of a depreciable asset purchased four years earlier when the ERC consolidated its office space. It is an accounting representation that will continue for the duration of the amortization period and for as long as the ERC constrains capital spending.

Financial Statements

The ERC's 2012-13 financial statements can be found on its website.[5]

The ERC is subject to periodic Core Control Audits performed by the Office of the Comptroller General and uses the results of such audits to comply with the Treasury Board *Policy on Internal Control*.

A Core Control Audit was performed in 2011-12 by the Office of the Comptroller General of Canada. The Audit Report and related Management Action Plan are posted on the ERC's web site.[6]

Supplementary Information Tables

All electronic supplementary information tables listed in the 2012-13 DPR can be found on the ERC's website.[7]

Greening Government Operations
Internal Audits and Evaluations
Response to Parliamentary Committees and External Audits
User Fees and Regulatory Charges (*User Fees Act*)

Tax Expenditures and Evaluations Report

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance publishes cost estimates and projections for these measures annually in the Tax Expenditures and Evaluations[8] publication. The tax measures presented in the Tax Expenditures and Evaluations publication are the sole responsibility of the Minister of Finance.

SECTION IV: OTHER ITEMS OF INTEREST

Organizational Contact Information

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Additional Information

The ERC reports directly to Parliament through the Minister of Public Safety and Emergency Preparedness . The ERC has a single member, the Chair, who is appointed by Order-in-Council.

Endnotes

1. Type is defined as follows: **previously committed to** – committed to in the first or second fiscal year prior to the subject year of the report; **ongoing** – committed to at least three fiscal years prior to the subject year of the report; and **new** – newly committed to in the reporting year of the RPP or DPR. If another type that is specific to the department is introduced, an explanation of its meaning must be provided.

2. In order to align with departmental authorities by Program, as presented in Vol. II of the *Public Accounts*, services provided without charge amounts for employer's contribution to employee insurance plans, such as the Public Service Health Care Plan and the Public Service Dental Plan provided by the Treasury Board of Canada Secretariat, accommodations provided by Public Works and Government Services Canada, Workers' compensation provided by Human Resources and Skills Development Canada and legal services provided by the Department of Justice are not to be included in this figure. This information is presented in Departmental Financial Statements only.

3. Treasury Board of Canada Secretariat, http://www.tbs-sct.gc.ca/ppg-cpr/descript-eng.aspx

4. Public Works and Government Services Canada, http://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/index-eng.html

5. RCMP External Review Committee, http://www.erc-cee.gc.ca/cnt/rsrcs/rprts/fs-ef/index-eng.aspx

6. RCMP External Review Committee, http://www.erc-cee.gc.ca/cnt/rsrcs/rprts/ae-ve/index-eng.aspx

7. RCMP External Review Committee, http://www.erc-cee.gc.ca/cnt/rsrcs/rprts/dpr-rmr/index-eng.aspx

8. Department of Finance Canada, http://www.fin.gc.ca/purl/taxexp-eng.asp